

BEFORE THE TENNESSEE REGULATORY AUTHORITY

NASHVILLE, TENNESSEE

March 13, 2002

IN RE:

**GENERIC DOCKET TO CONSIDER
TECHNOLOGY ADVANCES AND
GEOGRAPHIC DEAYERAGING**

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**DOCKET NO.
01-00339**

REPORT AND RECOMMENDATION

This matter came before the Pre-Hearing Officer *sua sponte* to determine whether this Docket should be divided into two dockets. It is the recommendation of the Pre-Hearing Officer that such division is appropriate given the differences in the subjects of geographic deayeraging and technology advances.

The Authority opened this docket in accordance with the *Final Order* entered on February 23, 2001 in Docket No. 97-01262.¹ At the May 1, 2001 Authority Conference, the Directors voted unanimously to appoint General Counsel or his designee to act as the Pre-Hearing Officer for the purposes of determining the scope of this Docket, establishing a procedural schedule to completion, and disposing of all preliminary matters.

While determining the scope of this Docket, it became apparent to the Pre-Hearing Officer that addressing the two subjects of this Docket, geographic deayeraging and technology advances, in one proceeding could be difficult and cause confusion. To explain, the purpose of the geographic deayeraging portion of this Docket is the adoption of a permanent geographic deayeraging

¹ See *In re: Petition of BellSouth Telecommunications, Inc. to Convene a Contested Case to Establish "Permanent Prices" for Interconnection and Unbundled Network Elements*, Docket No. 97-01262, *Final Order*, pp. 10-11 (Feb. 23, 2001) (hereinafter *Permanent Prices Docket*).

methodology for BellSouth Telecommunications, Inc. ("BellSouth") unbundled network element ("UNE") loop rates and the application of that methodology to BellSouth UNE loop rates.² The purpose of the technology advances portion of this Docket is to establish rates for those BellSouth UNEs on which technology advances have had an impact.³ The setting of average rates in the technology advances portion of this Docket is independent of establishing a geographic deaveraging methodology. Additionally, the modification of rates due to technology advances will require that BellSouth alter its cost study. Adopting a geographic deaveraging methodology will not. Also, the initial filings required in each portion of the Docket are unrelated; thus, it is unlikely that future filing requirements will coincide. As to geographic deaveraging, the parties will first be requested to file proposed deaveraging methodologies, while in regard to technology advances, the first requested filing will be comments identifying those UNE rates requiring reevaluation. Lastly, although the Authority may ultimately apply the adopted geographic deaveraging methodology to the rates set in the technology advances portion of this Docket, it is unclear at this time to what extent the Authority will alter UNE loop rates, if at all.

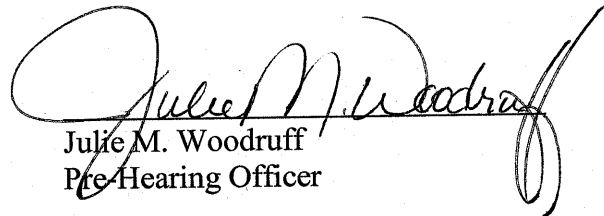
While it is true that the two subjects of this Docket are not in opposition, it is also true that they do not compliment one another. Thus, although the two subjects could remain under one docket, division of the subjects into two separate dockets will ensure a clear understanding of the scope and the most efficient resolution of each subject. For the foregoing reasons, the Pre-Hearing Officer recommends that the Directors vote to retain Docket No. 01-00339 as the docket on geographic deaveraging and open a new docket for technology advances.

² See *Permanent Prices Docket, Second Interim Order Re: Revised Cost Studies and Geographic Deaveraging*, p. 11 (Nov. 22, 2000). To date, the Authority has set UNE loop rates for BellSouth in the *Permanent Prices Docket* and Docket No. 00-00544, the *Line Sharing Docket*. See *Permanent Prices Docket, Final Order*, p. 20 (Feb. 23, 2001); Transcript of Proceeding, November 20, 2001, pp. 44-45 (deliberations in *In re: Generic Docket to Establish UNE Prices for Lines Sharing Per FCC 99-355, and Riser Cable and Terminating Wire as Ordered in TRA Docket 98-00123*, Docket No. 00-00544).

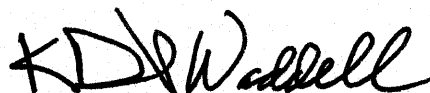
³ Although the Authority did not explicitly limit this Docket to BellSouth, the docket from which this Docket derived, the *Permanent Prices Docket*, was so limited. Therefore, it follows that the scope of the technology advances portion of this Docket is limited to BellSouth UNEs.

If this recommendation is accepted, the Pre-Hearing Officer further recommends that the Directors vote to appoint General Counsel or his designee to act as the Pre-Hearing Officer for the purposes of determining the scope of the technology advances docket, establishing a procedural schedule to completion, and disposing of all preliminary matters. Further, the Pre-Hearing Officer recommends that the Directors order Time Warner Telecom of the Mid-South, L.P., Brooks Fiber Communications of Tennessee, Inc., and MCImetro Access Transmission Services, LLC, all of which have filed petitions to intervene, to notify the Executive Secretary within five (5) days of the deliberations regarding into which dockets the parties wish to intervene. If the parties choose to seek intervention in both dockets, then the petitions should remain in Docket No. 01-00339 and the parties afforded an opportunity to file petitions in the technology advances docket at a later date.

The Pre-Hearing Officer presents this Report and Recommendation to the Directors of the Tennessee Regulatory Authority for their consideration at a regularly scheduled Authority Conference to be scheduled by the publishing of the Final Conference Agenda. Any comments on the Report and Recommendation shall be filed no later than **Friday, March 22, 2002**.


Julie M. Woodruff
Pre-Hearing Officer

ATTEST:


K. David Waddell, Executive Secretary